

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: April 25, 2023

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RAYMOND KEANE and MARY KEANE, *
as parents and natural guardians of *
G.K., a minor, *

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

UNPUBLISHED

No. 21-2300V

Special Master Dorsey

Ruling on Entitlement; Concession;
Table Injury; Varicella Vaccine;
Disseminated Varicella Vaccine-Strain
Viral Disease; Varicella Meningitis.

Timothy J. Mason, Law Office of Sylvia Chin-Caplan, LLC, Boston, MA, for Petitioners.
Ryan Pohlman Miller, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 16, 2021, Raymond Keane and Mary Keane (“Petitioners”), as parents and natural guardians of G.K., a minor, filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”)² alleging that as a result of varicella vaccinations administered to G.K. on June 27, 2008 and August 23, 2011, G.K. developed vaccine-strain varicella meningitis. Petition at Preamble (ECF No. 1).

¹ Because this Ruling contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc> in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), Petitioners have 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2018). All citations in this Ruling to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

On April 24, 2023, Respondent filed a report pursuant to Vaccine Rule 4(c) in which he concedes that Petitioners are entitled to compensation in this case. Respondent's Report ("Resp. Rept.") at 2. Based on a review of the medical records, Respondent states that "[P]etitioners, on behalf of G.K., have established the criteria set forth in the [Vaccine Injury] Table and the Qualifications and Aids to Interpretation ("QAI") for disseminated varicella vaccine-strain viral disease."³³ Id. at 11. Further, "the first symptom of G.K.'s disseminated varicella vaccine-strain viral disease occurred in early February 2019, and the [p]etition was filed on December 16, 2021, within the three-year statute of limitations." Id. Therefore, Petitioners are entitled to compensation for G.K.'s Table injury of vaccine-strain varicella meningitis and its sequelae. Id. at 12.

A special master may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. § 300aa-13; Vaccine Rule 8(d). In light of Respondent's concession and a review of the record, the undersigned finds Petitioners are entitled to compensation. This matter will now proceed to the damages phase.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Special Master

³³ In their petition, Petitioners alleged G.K. is entitled to relief under the Act for on-Table disseminated varicella vaccine-strain viral disease and varicella vaccine-strain viral reactivation. Petition at 11-12. Respondent's position is that Petitioners have not established the criteria set forth in the QAI for varicella vaccine-strain viral reactivation. Resp. Rept. at 11 n.3.